

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:10-CV-350**

OWEN HARTY

Plaintiff,

vs.

**DENNY’S INC., f/k/a DENNY’S
RESTAURANTS, INC., J. A. HARTMAN
PARTNERSHIP, and
SHIERIDAN-PINEGROVE
PARTNERSHIP,**

Defendants.

ORDER

THIS MATTER is before the Court upon Plaintiff’s Motion to Strike Defendants’ Jury Demand. (Doc. No. 47). On August 5, 2012, Defendant Success Management Group filed an answer in the above-captioned matter, (Doc. No. 46), and requested a jury trial in this action “on any issues so triable as of right.”

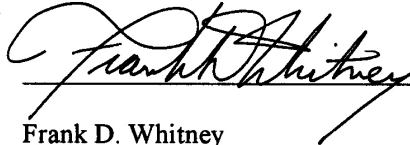
While Defendants preserve their jury trial demand should an issue “so triable as of right” arise in this case, Plaintiff’s Motion is GRANTED because currently there are no issues in this case for which Defendants are entitled to a jury trial. Plaintiff Harty seeks only injunctive relief in the instant case. (See Compl, p. 10-11; Doc No. 47, p. 1). It is well settled law that the Seventh Amendment right to a trial by jury does not apply to suits seeking only injunctive relief. See City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687, 119 (1999); Harty v. Tathata, Inc., No. 5:10-CV-113, 2010 WL 3186883 (E.D.N.C. August 11, 2010) (“Here, plaintiff’s complaint requests prospective injunctive relief pursuant to Title III of the Americans with Disabilities Act and related litigation costs. Thus, the matter is an equitable one, and there is no right to a jury trial.”)

(internal citations omitted).

IT IS THEREFORE ORDERED THAT Plaintiff's Motion to Strike is HEREBY GRANTED and Defendant shall have no right to a trial by jury.

IT IS SO ORDERED.

Signed: August 14, 2012


Frank D. Whitney
United States District Judge

